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MAILED
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OFFICE OF PETITIONS

In re Application of
Christopher Douglas Blair
Application No. 10/525,260
Filed: February 22, 2005
Attorney Docket No.: 762301-1560

ON PETITION

This is a decision in response to the petition, filed October 20, 2010, under the provisions of 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 17, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 17, 2010. A Notice of Abandonment was mailed on October 12, 2010.

Petitioners argue that the abandonment should be withdrawn since the period for paying the issue and publication fees should have been restarted by the Supplemental Notice of Allowability mailed August 30, 2010.

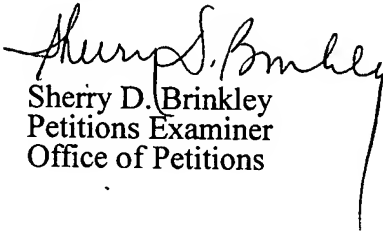
Petitioners' argument is not well taken. The period within which the issue fee must be paid was set in the Notice of Allowance mailed June 17, 2010 and, because this period is prescribed by statute, it cannot be extended. See 35 U.S.C. 151. The Supplemental Notice of Allowability did not operate to reset the period for paying the issue fee. In fact, the Supplemental Notice of Allowability mailed August 30, 2010 states:

"-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -- All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (*or previously mailed*), a Notice of Allowance (PTOL 85) or other appropriate communication will be mailed in due course..." (Emphasis added)

The record clearly shows that the Notice of Allowance (PTOL 85) was mailed on June 17, 2010.

By fax: (571) 273-8300
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By Internet: EFS-Web¹


Sherry D. Brinkley
Petitions Examiner
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¹ www.uspto.gov/ebs/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)